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COUNSEL FOR THE CHAPTER 7 TRUSTEE

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION**

IN RE:	)	
	)	CHAPTER 7 CASE
	)	
CLINT EDWARD HICKS & VIRGINIA	)	CASE NO. 20-10168-RLJ-7
PADGETT HICKS,	)	
Debtors.	)	

**MOTION TO APPROVE SALE OF REAL PROPERTY LOCATED AT  
321 HUNT STREET, CLYDE, TEXAS 79510  
FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES**

**A HEARING DATE ON SUCH SALE IS SET FOR JUNE 2, 2021 AT 1:30 PM CST, WHICH IS AT LEAST 21 DAYS FROM THE DATE OF SERVICE HEREOF. NO OBJECTION TO SUCH SALE WILL BE CONSIDERED UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 1205 TEXAS AVENUE, ROOM 306, LUBBOCK, TEXAS, 79401, AT LEAST 4 DAYS IN ADVANCE OF SUCH HEARING DATE.**

**ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK, AND A COPY SHALL BE SERVED UPON THE UNDERSIGNED COUNSEL FOR MOVANTS PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED A HEARING MAY BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.**

**IF NO HEARING ON THIS APPLICATION IS TIMELY REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT.**

TO THE HONORABLE ROBERT L. JONES, UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, LAURIE DAHL REA, the Chapter 7 Trustee ("Trustee") in this case and files this, *Motion to Approve Sale of Real Property Located at 321 Hunt Street, Clyde, Texas 79510 Free and Clear of Liens, Claims, and Encumbrances* (the "Motion") and in support states as the follows:

### **I. BACKGROUND**

1. On September 25, 2020 (the "Petition Date"), Clint Edward Hicks & Virginia Padgett Hicks (the "Debtors") filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code commencing bankruptcy case number 20-10168 (the "Bankruptcy Case"). The Trustee was appointed as the chapter 7 trustee.

2. The Debtors own non-exempt real property located at 321 Hunt St., Clyde, Texas (the "Property"), more specifically described as:

Lot W/2 LT 7, Blk 38, Subd RAILROAD – CLYDE

3. The Property was valued at \$60,480.00 on Debtors' Schedule A with a secured note with NewRez in the amount of \$30,875.00.

4. On December 17, 2020, the Trustee filed the Application to Employ Jerry Mash, Coldwell Banker Apex Realtors, LLC as Real Estate Agent [Docket No. 23]. On January 12, 2021, the Order Authorizing the Employment of Jerry Mash [Docket No. 31] was entered by this Court.

5. The only secured creditor with an interest in the Property appears to be NewRez, LLC d/b/a Shellpoint Mortgage Servicing ("NewRez") with a secured claim in the amount of approximately \$35,000.00.

6. On December 14, 2020, NewRez filed a Motion for Approval of Agreed Order Conditioning the Automatic Stay Against 321 Hunt Street, Clyde, TX 79510 Pursuant to Federal Rule of Bankruptcy Procedure 4001(d) [Docket No. 22] agreeing to permit the Trustee to market and sell the Property to save the equity for the benefit of the creditors of this estate.

7. The Agreed Order Conditioning the Automatic Stay Against 321 Hunt Street, Clyde, Texas 79510 Pursuance to Federal Rule of Bankruptcy Procedure 4001(d) (“Agreed Order”) [Docket No. 34] was entered by this Court on February 3, 2021 allowing the Trustee 120 days to market and sell the property or until April 10, 2021.

8. The Automatic Stay lifted pursuant to the Agreed Order on April 10, 2021.

9. On April 19, 2021, The Trustee, with the assistance of Jerry Mash, Coldwell Banker Apex Realtors, LLC, received one (1) offer for the purchase of the Property in the amount of \$53,500.00.

10. As of April 21, 2021, NewRez has agreed to allow the Trustee to proceed with the sale of the Property despite the fact the stay has lifted.

## **II. RELIEF REQUESTED AND BASIS THEREFOR**

11. The Trustee seeks permission to sell the Property to the purchaser for \$53,500.00 under the terms and conditions set forth in the Real Estate Contract (the “Contract”) attached to this Motion as **Exhibit A**. The sale will be subject to higher and better offers through entry of the order approving this Motion.

12. The Trustee requests that the sale be free and clear of any liens, claims, encumbrances, or other interests (collectively, the “Liens”).

13. Sections 363(b) and (f) of the Bankruptcy Code and Bankruptcy Rules 6004 and 9014 permit the relief requested in this Motion.

14. If there are Liens other than that of NewRez, they will attach to the proceeds of the sale to the same validity, extent, and priority as they had with respect to the Property.

15. The Trustee requests a finding that the purchaser is a good faith purchaser of the Property who is entitled to the protections afforded by 11 U.S.C. § 363(m).

16. The Trustee believes that the offer made by the purchaser in the Contract is the highest and best offer the estate is likely to receive for the Property given the circumstances. The sale is in the best interests of the estate and its creditors and is an exercise of the Trustee's reasonable business judgment.

17. The Trustee further requests that this Court waive the fourteen (14) day stay pursuant to Bankruptcy Rule 6004(h) and authorize the sale effective immediately upon entry of the order granting this Motion.

**WHEREFORE**, the Trustee seeks an Order from the Court granting this Motion and all other relief as to which she is justly entitled.

Dated: April 26, 2021

Respectfully submitted,

/s/ Laurie Dahl Rea  
Laurie Dahl Rea  
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COUNSEL FOR THE CHAPTER 7 TRUSTEE

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been electronically filed in the above captioned case with the Clerk of the United States Bankruptcy Court by using the CM/ECF system and a copy was served on the parties who receive notice via the Court's ECF notification system, and a copy was served via first class U.S. mail on each of the parties set forth on the attached service list on April 26, 2021.

The Motion was also served via email to counsel for NewRez, LLC d/b/a Shellpoint Mortgage Services as follows:

Marlo Green: [Marlo.Green@padgettlawgroup.com](mailto:Marlo.Green@padgettlawgroup.com)

Cheyenne Zokaie: [Cheyenne.Zokaie@padgettlawgroup.com](mailto:Cheyenne.Zokaie@padgettlawgroup.com)

/s/ Laurie Dahl Rea

Laurie Dahl Rea

## **EXHIBIT A**

Contract for Sale of 321 Hunt Street, Clyde, Texas 79510